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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/892,205 | 06/26/2001 | David G. Turek | 2437/103 | 9328 |

2101 7590 10/08/2004
BROMBERG & SUNSTEIN LLP
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BOSTON, MA 02110-1618

EXAMINER

O'CONNOR, GERALD J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3627

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/892,205 | Applicant(s) Turek et al. ms | |
| | Examiner O'Connor | Art Unit 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on July 12, 2004 (Amdt and Response to Req't for Restriction).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 57 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-43 and 57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 7, 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9 and 10</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of the invention of Group I, claims 1-43 and 57, in the reply filed July 12, 2004 is hereby acknowledged.
2. The cancellation of non-elected claims 44-56 by applicant in the reply filed July 12, 2004 is hereby acknowledged, the direction to "withdraw" these claims having been construed as intent to "cancel," since only the Office can "withdraw" claims from further consideration.

Response to Amendment

3. The amendment submitted July 12, 2004 fails to comply with 37 CFR 1.121(c) because it presents cancelled claims 44-56 as "withdrawn" instead of --cancelled--. The necessary correction has been made and the paper entered, but all future amendments must comply with 37 CFR 1.121.

Claim Objections

4. Claims 4-43 and 57 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrington (US 5,895,454).

Harrington discloses a method of establishing a customized electronic site 20 for the purposes of providing products 30, the method comprising: (a) obtaining over a network information specifying criteria 32 for the customized electronic site 20, wherein the criteria include a selection of products 30 and descriptions; and, (b) using the information to automatically establish a customized electronic site 20.

Regarding claim 2, the method of Harrington includes that the information is obtained by a primary electronic site 21.

Regarding claim 3, the method of Harrington includes that automatically establishing a customized electronic site 20 includes automatically establishing a database 10 containing the specified criteria 32.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to the disclosure.

8. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(703) 305-1525**, and whose facsimile number is **(703) 746-3976**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

Inquiries of a general nature or simply relating to the status of the application should be directed to the receptionist, whose telephone number is **(703) 308-1113**.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at **(703) 308-5183**.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (703) 872-9306** (fax-back auto-reply receipt service provided). Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be left with the receptionist on the seventh floor of Crystal Park Five, 2451 Crystal Dr, Arlington, VA 22202.

GJOC

September 28, 2004

A handwritten signature in black ink, appearing to read "Gerald J. O'Connor", followed by the handwritten number "(9-28-04)" in parentheses.

Gerald J. O'Connor
Patent Examiner
Group Art Unit 3627